

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 642**

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**Introduced by Assembly Member Charles Calderon**

February 16, 2011

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An act to amend Sections 25741 and 26003 of, and to add Chapter 6 (commencing with Section 7100) to Part 2 of Division 6 of, of the Public Resources Code, relating to renewable energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 642, as amended, Charles Calderon. Renewable energy: biomass: algae.

(1) Existing law authorizes the State Lands Commission to negotiate various types of leases for public lands, including grazing leases, recreational leases, oil and gas leases, and mineral leases.

This bill would authorize the commission to enter into a lease for the development of algae-producing energy and agricultural products. The bill would require the lease to include specified provisions.

(2) Existing law requires the State Energy Resources Conservation and Development Commission to administer the Renewable Energy Resources Program, which provides financial assistance for the development of renewable electricity generation facilities, including facilities that use biomass.

Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a renewable energy program to provide financial assistance to specified entities to generate new and renewable energy sources. Existing law defines “renewable

energy” to mean a device or technology that, among other things, uses biomass for electrical generation.

The California Renewables Portfolio Standard Program requires a retail seller of electricity to purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, including electricity generated through the use of, among other things, biomass, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

This bill would expressly provide that “biomass” for the above provisions includes algae.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6 (commencing with Section 7100) is  
2 added to Part 2 of Division 6 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 6. LEASES-~~FOR~~ FOR ALGAE PRODUCTION FOR ENERGY  
6 AND AGRICULTURAL USES  
7

8 7100. The commission may, when it appears to be in the public  
9 interest, negotiate and enter into a lease for the development of  
10 algae-producing energy and agricultural products. The lease shall  
11 include all of the following:

12 (a) Terms, conditions, and provisions that will protect the  
13 interests of the state with reference to securing payment to the state  
14 of the proper amount or the value of production.

15 (b) Provisions specifying the methods of operation and standard  
16 requirements for carrying on operations in a proper and  
17 workmanlike manner, the prevention of waste, the protection of  
18 the safety and health of ~~worker~~ workers, and the liability of the  
19 lessee for personal injury and property damage.

20 (c) Security for faithful performance of the lessee, including  
21 provisions for the forfeiture of the lease as set forth in Section  
22 6805, and the requirement that the lessee shall, at the time of  
23 execution of the lease, furnish and thereafter maintain a good and  
24 sufficient bond in an amount specified by the commission, in favor  
25 of the state, guaranteeing faithful performance by the lessee of the

1 terms, covenants, and conditions of the lease and compliance with  
2 this chapter.

3 (d) ~~Other-covenant~~ *covenants*, conditions, requirements, and  
4 reservations as may be deemed advisable by the commission in  
5 effecting the purpose of this chapter and not inconsistent with any  
6 of its provisions.

7 (e) A provision providing that any provision of the lease  
8 executed under this chapter that purports to deprive the state or a  
9 lessee of a right or benefit secured by law, or that is otherwise  
10 inconsistent with this chapter, is void, and shall be deemed  
11 separable from and without effect upon the valid provision of the  
12 lease.

13 7101. The commission, in issuing a lease under this chapter,  
14 shall reserve to the state the right to lease, sell, or otherwise dispose  
15 of the subsurface rights in the land.

16 ~~SEC. 2. Section 25741 of the Public Resources Code is~~  
17 ~~amended to read:~~

18 ~~25741. As used in this chapter, the following terms have the~~  
19 ~~following meaning:~~

20 (a) ~~“Delivered” and “delivery” mean the electricity output of~~  
21 ~~an in-state renewable electricity generation facility that is used to~~  
22 ~~serve end-use retail customers located within the state. Subject to~~  
23 ~~verification by the accounting system established by the~~  
24 ~~commission pursuant to subdivision (b) of Section 399.13 of the~~  
25 ~~Public Utilities Code, electricity shall be deemed delivered if it is~~  
26 ~~either generated at a location within the state, or is scheduled for~~  
27 ~~consumption by California end-use retail customers. Subject to~~  
28 ~~criteria adopted by the commission, electricity generated by an~~  
29 ~~eligible renewable energy resource may be considered “delivered”~~  
30 ~~regardless of whether the electricity is generated at a different time~~  
31 ~~from consumption by a California end-use customer.~~

32 (b) ~~“In-state renewable electricity generation facility” means a~~  
33 ~~facility that meets all of the following criteria:~~

34 (1) ~~The facility uses biomass, including algae, solar thermal,~~  
35 ~~photovoltaic, wind, geothermal, fuel cells using renewable fuels,~~  
36 ~~small hydroelectric generation of 30 megawatts or less, digester~~  
37 ~~gas, municipal solid waste conversion, landfill gas, ocean wave,~~  
38 ~~ocean thermal, or tidal current, and any additions or enhancements~~  
39 ~~to the facility using that technology.~~

40 (2) ~~The facility satisfies one of the following requirements:~~

1     (A) The facility is located in the state or near the border of the  
2 state with the first point of connection to the transmission network  
3 within this state and electricity produced by the facility is delivered  
4 to an in-state location.

5     (B) The facility has its first point of interconnection to the  
6 transmission network outside the state and satisfies all of the  
7 following requirements:

8     (i) It is connected to the transmission network within the  
9 Western Electricity Coordinating Council (WECC) service  
10 territory.

11     (ii) It commences initial commercial operation after January 1,  
12 2005.

13     (iii) Electricity produced by the facility is delivered to an in-state  
14 location.

15     (iv) It will not cause or contribute to any violation of a California  
16 environmental quality standard or requirement.

17     (v) If the facility is outside of the United States, it is developed  
18 and operated in a manner that is as protective of the environment  
19 as a similar facility located in the state.

20     (vi) It participates in the accounting system to verify compliance  
21 with the renewables portfolio standard by retail sellers, once  
22 established by the Energy Commission pursuant to subdivision  
23 (b) of Section 399.13 of the Public Utilities Code.

24     (C) The facility meets the requirements of clauses (i), (iii), (iv),  
25 (v), and (vi) in subparagraph (B), but does not meet the  
26 requirements of clause (ii) because it commences initial operation  
27 prior to January 1, 2005, if the facility satisfies either of the  
28 following requirements:

29     (i) The electricity is from incremental generation resulting from  
30 expansion or repowering of the facility.

31     (ii) The facility has been part of the existing baseline of eligible  
32 renewable energy resources of a retail seller established pursuant  
33 to paragraph (2) of subdivision (b) of Section 399.15 of the Public  
34 Utilities Code or has been part of the existing baseline of eligible  
35 renewable energy resources of a local publicly owned electric  
36 utility established pursuant to Section 387 of the Public Utilities  
37 Code.

38     (3) For the purposes of this subdivision, “solid waste  
39 conversion” means a technology that uses a noncombustion thermal  
40 process to convert solid waste to a clean-burning fuel for the

1 purpose of generating electricity, and that meets all of the following  
2 criteria:

3 (A) The technology does not use air or oxygen in the conversion  
4 process, except ambient air to maintain temperature control.

5 (B) The technology produces no discharges of air contaminants  
6 or emissions, including greenhouse gases as defined in Section  
7 38505 of the Health and Safety Code.

8 (C) The technology produces no discharges to surface or  
9 groundwaters of the state.

10 (D) The technology produces no hazardous wastes.

11 (E) To the maximum extent feasible, the technology removes  
12 all recyclable materials and marketable green waste compostable  
13 materials from the solid waste stream prior to the conversion  
14 process and the owner or operator of the facility certifies that those  
15 materials will be recycled or composted.

16 (F) The facility at which the technology is used is in compliance  
17 with all applicable laws, regulations, and ordinances.

18 (G) The technology meets any other conditions established by  
19 the commission.

20 (H) The facility certifies that any local agency sending solid  
21 waste to the facility diverted at least 30 percent of all solid waste  
22 it collects through solid waste reduction, recycling, and  
23 composting. For purposes of this paragraph, "local agency" means  
24 any city, county, or special district, or subdivision thereof, which  
25 is authorized to provide solid waste handling services.

26 (e) "Procurement entity" means any person or corporation that  
27 enters into an agreement with a retail seller to procure eligible  
28 renewable energy resources pursuant to subdivision (f) of Section  
29 399.14 of the Public Utilities Code.

30 (d) "Renewable energy public goods charge" means that portion  
31 of the nonbypassable system benefits charge authorized to be  
32 collected and to be transferred to the Renewable Resource Trust  
33 Fund pursuant to the Reliable Electric Service Investments Act  
34 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part  
35 1 of Division 1 of the Public Utilities Code).

36 (e) "Report" means the report entitled "Investing in Renewable  
37 Electricity Generation in California" (June 2001, Publication  
38 Number P500-00-022) submitted to the Governor and the  
39 Legislature by the commission.

1 (f) ~~“Retail seller” means a “retail seller” as defined in Section~~  
2 ~~399.12 of the Public Utilities Code.~~

3 ~~SEC. 3. Section 26003 of the Public Resources Code is~~  
4 ~~amended to read:~~

5 ~~26003. As used in this division, unless the context otherwise~~  
6 ~~requires:~~

7 (a) ~~“Authority” means the California Alternative Energy and~~  
8 ~~Advanced Transportation Financing Authority established pursuant~~  
9 ~~to Section 26004, and any board, commission, department, or~~  
10 ~~officer succeeding to the functions of the authority, or to which~~  
11 ~~the powers conferred upon the authority by this division shall be~~  
12 ~~given.~~

13 (b) ~~“Cost” as applied to a project or portion of the project~~  
14 ~~financed under this division means all or part of the cost of~~  
15 ~~construction and acquisition of all lands, structures, real or personal~~  
16 ~~property or an interest in the real or personal property, rights,~~  
17 ~~rights-of-way, franchises, easements, and interests acquired or~~  
18 ~~used for a project; the cost of demolishing or removing any~~  
19 ~~buildings or structures on land so acquired, including the cost of~~  
20 ~~acquiring any lands to which those buildings or structures may be~~  
21 ~~moved; the cost of all machinery, equipment, and furnishings;~~  
22 ~~financing charges, interest prior to, during, and for a period after,~~  
23 ~~completion of construction as determined by the authority; the cost~~  
24 ~~of the purchase or sale of energy derived from an alternative source~~  
25 ~~pursuant to subdivision (g) of Section 26011; provisions for~~  
26 ~~working capital; reserves for principal and interest and for~~  
27 ~~extensions, enlargements, additions, replacements, renovations,~~  
28 ~~and improvements; the cost of architectural, engineering, financial,~~  
29 ~~accounting, auditing and legal services, plans, specifications,~~  
30 ~~estimates, administrative expenses, and other expenses necessary~~  
31 ~~or incident to determining the feasibility of constructing any project~~  
32 ~~or incident to the construction, acquisition, or financing of a~~  
33 ~~project.~~

34 (c) ~~(1) “Alternative sources” means the application of~~  
35 ~~cogeneration technology, as defined in Section 25134; the~~  
36 ~~conservation of energy; or the use of solar, biomass, wind,~~  
37 ~~geothermal, hydroelectricity under 30 megawatts, or any other~~  
38 ~~source of energy, the efficient use of which will reduce the use of~~  
39 ~~fossil and nuclear fuels.~~

1     ~~(2) “Alternative sources” does not include a hydroelectric facility~~  
2 ~~that does not meet state laws pertaining to the control,~~  
3 ~~appropriation, use, and distribution of water, including, but not~~  
4 ~~limited to, the obtaining of applicable licenses and permits.~~

5     ~~(d) “Advanced transportation technologies” means emerging~~  
6 ~~commercially competitive transportation-related technologies~~  
7 ~~identified by the authority as capable of creating long-term, high~~  
8 ~~value-added jobs for Californians while enhancing the state’s~~  
9 ~~commitment to energy conservation, pollution reduction, and~~  
10 ~~transportation efficiency. Those technologies may include, but are~~  
11 ~~not limited to, any of the following:~~

12     ~~(1) Intelligent vehicle highway systems.~~

13     ~~(2) Advanced telecommunications for transportation.~~

14     ~~(3) Command, control, and communications for public transit~~  
15 ~~vehicles and systems.~~

16     ~~(4) Electric vehicles and ultralow-emission vehicles.~~

17     ~~(5) High-speed rail and magnetic levitation passenger systems.~~

18     ~~(6) Fuel cells.~~

19     ~~(e) “Financial assistance” includes, but is not limited to, either,~~  
20 ~~or any combination, of the following:~~

21     ~~(1) Loans, loan loss reserves, interest rate reductions, proceeds~~  
22 ~~of bonds issued by the authority, insurance, guarantees or other~~  
23 ~~credit enhancements or liquidity facilities, contributions of money,~~  
24 ~~property, labor, or other items of value, or any combination thereof,~~  
25 ~~as determined by, and approved by the resolution of, the board.~~

26     ~~(2) Any other type of assistance the authority determines is~~  
27 ~~appropriate.~~

28     ~~(f) “Participating party” means either of the following:~~

29     ~~(1) A person, or an entity or group of entities engaged in~~  
30 ~~business or operations in the state, whether organized for profit or~~  
31 ~~not for profit, that does either of the following:~~

32     ~~(A) Applies for financial assistance from the authority for the~~  
33 ~~purpose of implementing a project in a manner prescribed by the~~  
34 ~~authority.~~

35     ~~(B) Participates in the purchase or sale of energy derived from~~  
36 ~~an alternative source pursuant to subdivision (g) of Section 26011.~~

37     ~~(2) A public agency or nonprofit corporation that does either of~~  
38 ~~the following:~~

1     (A) Applies for financial assistance from the authority for the  
2     purpose of implementing a project in a manner prescribed by the  
3     authority.

4     (B) Participates in the purchase or sale of energy derived from  
5     an alternative source pursuant to subdivision (g) of Section 26011.

6     (g) (1) “Project” means a land, building, improvement to the  
7     land or building, rehabilitation, work, property, or structure, real  
8     or personal, stationary or mobile, including, but not limited to,  
9     machinery and equipment, whether or not in existence or under  
10    construction, that utilizes, or is designed to utilize, an alternative  
11    source, or that is utilized for the design, technology transfer,  
12    manufacture, production, assembly, distribution, or service of  
13    advanced transportation technologies, or an arrangement for the  
14    purchase, including prepayment, or sale of energy derived from  
15    an alternative source pursuant to subdivision (g) of Section 26011.

16    (2) “Project,” for the purposes of Section 26011.8, means any  
17    tangible personal property that is utilized for the design,  
18    manufacture, production, or assembly of advanced transportation  
19    technologies or alternative source products, components, or  
20    systems.

21    (h) “Public agency” means a federal or state agency, department,  
22    board, authority, state or community college, university, or  
23    commission, or a county, city and county, city, regional agency,  
24    public district, school district, or other political entity.

25    (i) (1) “Renewable energy” means a device or technology that  
26    conserves or produces heat, processes heat, space heating, water  
27    heating, steam, space cooling, refrigeration, mechanical energy,  
28    electricity, or energy in any form convertible to these uses, that  
29    does not expend or use conventional energy fuels, and that uses  
30    any of the following electrical generation technologies:

31    (A) Biomass, including algae.

32    (B) Solar thermal.

33    (C) Photovoltaic.

34    (D) Wind.

35    (E) Geothermal.

36    (2) For purposes of this subdivision, “conventional energy fuel”  
37    means any fuel derived from petroleum deposits, including, but  
38    not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,  
39    including liquefied natural gas, or nuclear fissionable materials.



1     ~~(3) Notwithstanding paragraph (1), for purposes of this section,~~  
2     ~~“renewable energy” also means ultralow-emission equipment for~~  
3     ~~energy generation based on thermal energy systems such as natural~~  
4     ~~gas turbines and fuel cells.~~

5     ~~(j) “Revenue” means all rents, receipts, purchase payments,~~  
6     ~~loan repayments, and all other income or receipts derived by the~~  
7     ~~authority from a project, or the sale, lease, or other disposition of~~  
8     ~~alternative source or advanced transportation technology facilities;~~  
9     ~~or the making of loans to finance alternative source or advanced~~  
10    ~~transportation technology facilities, and any income or revenue~~  
11    ~~derived from the investment of money in any fund or account of~~  
12    ~~the authority.~~

13    ~~SEC. 2. For the purposes of Sections 25741 and 26003 of the~~  
14    ~~Public Resources Code, biomass includes algae.~~